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C O N F I D E N T I A L SECTION 01 OF 04 NAIROBI 000960

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FOR S, D, P, G, R, DS, DRL, AND AF A/S FRAZER FROM THE
AMBASSADOR

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TAGS: [PREL](#) [PGOV](#) [KDEM](#) [KE](#)

SUBJECT: RESOLVING KENYA'S CABINET IMBROGLIO

REF: NAIROBI 893 AND PREVIOUS

Classified By: Ambassador Ranneberger for reasons 1.4 b and d.

¶1. (C) Summary. President Kibaki and PM-designate Odinga have still not reached agreement on composition of a coalition cabinet. The difference between them is over 2-3 ministries. The impasse has heightened tensions. There was sporadic violence April 8 and 9, but the country is now calm. Hardliners are constraining both leaders, though the two seem committed to working out a cabinet deal and making the coalition government work. I met with Kibaki and Odinga April 8 to follow up on the Secretary's calls to them, but neither significantly altered their positions. Both see the U.S. role as positive and look to us to help encourage a solution. I engaged the media April 9 to highlight the Secretary's April 8 statement and to maintain pressure for

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action. Annan remains intensively engaged by phone with the two leaders, and I am coordinating closely with him. We are supporting various efforts underway to bring about another meeting between Kibaki and Odinga to iron out a cabinet deal.

I want to praise my Mission team, which has continued to work flat out in an extremely well-coordinated and effective way to support U.S. efforts. End summary.

Fight Over a Few Key Ministries

¶2. (C) Further to reftel, President Kibaki and Prime Minister-designate Odinga have still not reached agreement regarding composition of a coalition cabinet. While the dynamics are complex, the main issue holding up agreement is how cabinet positions will be divided. Kibaki and Odinga have agreed on a cabinet size of 40, with each side getting 20 positions. Odinga insists that for the sake of real power-sharing he must receive at least a few of the highest profile ministries. Kibaki has not offered any of these, and insists that what he put forward is fair. Odinga wants at least 2 infrastructure ministries (preferably Energy and Transport) and at least 1 policy coordination ministry (Foreign Affairs, or Justice and Constitutional Affairs, or Local Government).

¶3. (C) Kibaki and Odinga held a one-on-one meeting on April 3 that has become a source of contention. Kibaki insists

that at the meeting Odinga accepted Kibaki's proposed list of ministries (without the 3 noted above that Odinga wants). Odinga maintains that they agreed on the number of 40 ministries, but that he never agreed to Kibaki's list; and Odinga says Kibaki agreed at that meeting to cede Local Government. It is possible that there was a genuine misunderstanding, but it is more probable that either or both of them changed their minds after the meeting. Kibaki and Odinga met again on April 6, this time partly alone and partly with their teams, and reached no agreement.

14. (C) Both men are buffeted by hardliners in their camps. Uhuru Kenyatta, who currently holds Local Government and is a presidential aspirant, does not want to give up this powerful ministry. Kenyatta is important to the cohesion of Kibaki's Party of National Unity. Martha Karua, who is also a presidential aspirant and who was Kibaki's lead negotiator in the Annan-led talks, holds Justice and Constitutional Affairs and does not want to relinquish it. Kibaki sees Foreign Affairs as his personal domain. Odinga is under enormous pressure from William Ruto, who is key to the crucial support Odinga has in Rift Valley. Ruto feels threatened by the government's allegations that he was involved in organizing and supporting the Rift Valley violence which followed the election dispute.

Meetings with Kibaki and Odinga

15. (C) Following the Secretary's calls to Kibaki and Odinga on April 7, I met separately with them on April 8. I talked one-on-one with Kibaki for an hour and a half. Kibaki said he appreciated the Secretary's call, and he seemed sobered by the high-level U.S. expression of concern. I emphasized the

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need to make the final compromises needed to form the cabinet, coming back to this five times during the course of the discussion. I pressed hard, and discussed the details, including the ministries at play and possible trade-offs. Kibaki repeatedly insisted that he has offered all that he can. He said the problem is that Odinga keeps changing his conditions and demands for an agreement (moving the goal posts, though he did not use that expression). Kibaki sounded patient and exasperated at the same time. "His behavior has put me in an impossible position," Kibaki said. "I do not want to create another crisis by being the one who makes this deal not succeed." Kibaki went on to say that "I've reached a point where I cannot change, because if I do I will look useless to my people. I will lose all my credibility." Kibaki then discussed very frankly the pressures he is under. He noted that five of his most senior people are fighting over who will become deputy prime minister. They and others are insisting that he must not compromise further.

16. (C) Kibaki did, however, leave the door open. "I want to move this country forward," he said, "and I know that I cannot do that without a deal with Odinga. For the sake of finalizing an agreement, I might be willing to make additional concessions on ministries," he continued, "but there is no guarantee that Odinga would not simply take that and then put on yet more conditions. Please," he almost pleaded, "do not push me to do more." I stressed to Kibaki that the U.S. would use its full weight to ensure that Odinga does not make further demands, if Kibaki gives Odinga the final 2-3 ministries he wants. I told Kibaki that Odinga had told me he is ready to do the deal immediately if he gets those ministries. He needs the face-saving, I argued, and if Kibaki gives it, the U.S. will hold Odinga to his promise to do the deal.

17. (C) Kibaki expressed great appreciation for all the efforts the U.S. has been making to help Kenyans, and asked me to talk to Odinga to get him to accept what is on offer.

Kibaki asked me to call him with a read-out of my conversation with Odinga, which I did (see below). I made clear that the U.S. feels real power-sharing is necessary, and this does mean that Odinga needs to get some of the high profile ministries. Kibaki did not yield any ground. He did, however, ask me to make clear to Odinga that he (Kibaki) is ready to meet Odinga at any time. Kibaki said that I could also tell Odinga that he (Kibaki) is willing to make additional ministerial changes within 2 months following installation of the cabinet. Having the coalition government in place, Kibaki explained, will strengthen his hand within his own party and make it easier for him to make changes.

18. (C) Kibaki spoke as frankly and as passionately as I have ever heard him. "I don't know what to do," he said. "Why can't Odinga see that I actually want to help him because it is in my interest to do so." Kibaki explained that it is in his interest to help Odinga because this will undercut hardliners within Odinga's Orange Democratic Movement, particularly William Ruto. Odinga, Kibaki said, will get much of the credit for the progress to be made in the coming years. Kibaki talked at length about how he will need to work effectively with Odinga in order to carry out institutional reform and bring about economic and social progress. Kibaki claimed that there will be more Kalenjins (people from Rift Valley) in the government once Odinga is prime minister than there has ever been before. This, Kibaki maintained, would benefit Odinga and strengthen his credibility by showing results.

19. (C) I discussed the state of play with Odinga over lunch. I briefed him on my conversation with Kibaki and stated my view that Kibaki is committed to reaching a deal, but is under enormous pressure from hardliners. Odinga agreed with this assessment saying that, in some respects, it mirrored his own situation. Odinga insisted he and Kibaki did not reach the agreement (that Kibaki described to me) during their one-on-one meeting; rather, there was an agreement, but it was that Kibaki would cede the Local Government ministry as well as Energy and Transport. Odinga said he believes Kibaki will give up the Energy, Transport, and Local Government ministries. Odinga said he is reluctant to meet

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with Kibaki again unless there is a strong prospect of reaching agreement. He proposed having two people from each side meet to work out a final agreement. I expressed skepticism about the utility of this, noting that only he and Kibaki can make the necessary decisions. I talked at length with Odinga about the advantage he will have once he becomes Prime Minister, almost regardless of the specific nature of the cabinet appointments. He agreed with this, but said that accepting a deal without the 2-3 ministries he wants would risk splitting his party and thus weakening his leverage within the government and within Parliament. I told Odinga that we will move quickly to bolster his role as Prime Minister once the coalition cabinet is formed.

Annan Engaged

110. (C) While I was at lunch with Odinga, Annan called him. In recent days Annan has spoken repeatedly with Kibaki and Odinga to urge them forward. He spoke with Kibaki on April 8 before calling Odinga. Annan urged Kibaki and Odinga to meet again, and he urged Kibaki to yield at least a couple of the high profile ministries. I have been in frequent touch with Annan, and we are closely coordinating efforts. The evening of April 8, Annan told me it may become necessary for him to come to Kenya at some point to press Kibaki and Odinga to finalize a cabinet deal. He had planned to come for the planned April 12 swearing-in of the new cabinet and Prime Minister. Annan expressed great appreciation for the Secretary's continued engagement, saying it is essential to

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moving Kibaki and Odinga forward.

Public Posturing and Sporadic Violence

¶11. (C) After the unsuccessful Kibaki-Odinga meeting on April 6, both sides went public. That evening, Kibaki and Odinga made positive statements emphasizing their commitment to reach a cabinet deal and urging the Kenyan people to remain calm. (When I praised Kibaki for his very constructive statement, he said that he had to personally rewrite the statement his team had drafted, which had been very hardline.) Following these public statements, however, Odinga's Orange Democratic Movement made a very negative statement on April 7. Following a meeting of the ODM's parliamentary group, the ODM secretary-general issued a statement calling for suspension of the talks with Kibaki, and reopening a number of issues already resolved (like the size of the cabinet). The statement also labeled Kibaki's current partial cabinet "illegal and unconstitutional." I called Odinga to emphasize how unhelpful the statement was and to insist that he clarify his commitment to reaching agreement on the cabinet. Odinga sought to place the blame for the statement on his people, and to some degree it reflects the tremendous pressure he is under from hardliners.

¶12. (C) The impasse over the cabinet has heightened tensions, and sporadic violence flared in several places on April 8. This did not become generalized violence, and the country is currently calm. A very positive corollary to these rumblings of unrest, however, is the mounting chorus of voices from supporters of both sides, and indeed from Kenyans everywhere, echoing our pressure and demanding that their leaders resolve this impasse immediately.

Next Steps

¶13. (C) I and my team remain intensively engaged with Kibaki and Odinga, and their teams, to press for a cabinet deal. On April 9, I spoke with the media to highlight the Secretary's April 8 statement. Continued intensive U.S. engagement will remain essential to push for conclusion of the cabinet deal and effective functioning of the coalition government. Although everyone agrees it is preferable for Kibaki and Odinga to work out a deal by themselves, a visit by Annan may also become necessary to push them together to make the final compromises. The Secretary's calls and statement taken

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together are generating some momentum for a last, successful push to get the cabinet deal. People on both sides who want to see a deal are working to get Kibaki and Odinga to meet again. I have orchestrated with Odinga a meeting with him and several of his hardliners on April 10 for the purpose of laying out to the hardliners hard realities on the need for compromise, and having Odinga make clear his position in front of them and then with the media that he is ready to do the deal if he work out with Kibaki the remaining few cabinet positions. I hope to see Kibaki again on the 11th.

¶14. (C) While the impact of hardliners constraining both Kibaki and Odinga is troubling, I believe that both men are capable of making the final tough decisions to put the cabinet deal in place. They proved their ability to do so with the signing of the February 28 political accord. They both see the U.S. and Annan as the only interlocutors who can help them bring this about.

RANNEBERGER